IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3433 OF 2005

Rajendra Ganpatlal Varma ..Applicant

V/s.

The State of Maharashtra & Ors. ..Respondents

Shri. Rajiv Patil for the Applicant.
Ms. Sangeeta Shinde A.P.P.for the Respondents.

CORAM: A.S. OKA, J.
DATED: JUNE 13, 2005.

P.C.:

1. Heard counsel appearing for the parties. From the copy of the F.I.R. produced by the Applicant it appears that the complaint is filed by an Officer of Bank of India and allegation appears to be that the Bank of India, Pimpri Branch is deceived.

2. During the course of arguments, original record is produced by the learned A.P.P. which shows that complainant is an Officer of the State Bank of India, Pimpri branch and the offence alleged to have been committed by the Applicant is as against the State Bank of India, Pimpri Branch. An affidavit has been filed by Shri. Dattatraya Ganpati Gadhave, a Police

Sub-Inspector attached to Pimpri Police Station. In the said affidavit he stated that the first informant is the Chief Manager of the State Bank of Pimpri Branch. It is stated that one Shri. Chaudhari, Head Constable while filling up the Form No.1-A, clause 5(b) and Form No.1-C, colum No.12 has mentioned the name of Bank of India instead of State Bank of India. It is stated that the original complaint is by the Chief Manager of the State Bank of India.

3. Perusal of the Judgment and Order passed by the learned Additional Sessions Judge on the Application for the anticipatory bail made by the Applicant shows that the submissions were made by the State before the learned Additional Sessions Judge that the F.I.R. has been lodged on behalf of the Bank of India and perhaps that is the reason why no dues certificates have been obtained by the Applicant from Bank of India, Primpri Branch. Nothing is placed on record before the learned Additional Session Judge to show that the real complainant is the Chief Manager of the State Bank of India and not the Bank of India.

4. Confronted with this situation, the learned A.P.P. on instructions suggested that in view of the said mistake on the part of the Head Constable, the State

desires to have an opportunity to place appropriate material before the learned Additional Sessions Judge so that application made by the Applicant for grant of anticipatory bail can be considered afresh on merits and, therefore, the order dated 13th May, 2005 passed by the learned Additional Sessions Judge, Pune be quashed and set aside.

5. Shri. Patil appearing for the Applicant stated that the suggestion made by the learned A.P.P. deserves to be accepted. He, however, submitted that till the application is heard by the learned Additional Sessions Judge, Applicant may be protected.

6. In view of the submissions made by the Counsel appearing for the parties I pass the following order:

: O R D E R :

i) Order dated 13th May, 2005 passed in the Criminal Bail Application No.776 of 2005 by the learned Additional Sessions Judge, Pune is quashed and set aside.

ii) The learned Additional Sessions Judge, Pune will decide the application afresh within a period of three

weeks from today.

iii) It will be open for the Respondents to place the appropriate material before the learned Additional Sessions Judge.

iv) Till the Application is decided by the learned Additional Sessions Judge, the Applicant shall not be arrested in connection with the C.R.No. 91 of 2005 registered with the Pimpri Police Station. Bail is granted subject to condition that the Applicant will attend the Police Station as and when called upon to do so for the purposes of investigation and will co-operate for the purposes of the investigation.

v) It is made clear that the application made by the Applicant shall be decided by the learned Additional Sessions Judge on its own merits without being influenced by the grant of interim protection by this Court. The protection is granted only to facilitate the hearing of this application before the Additional Sessions Judge.

vi) The application is disposed of in the above terms.

viii)Parties and concerned court to act on an

authenticated copy of this order.

JUDGE